

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
BRENDA A LANG

Brenda A Lang (Lang) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Lang s license as a real estate broker no 1999011145 will be subject to discipline Pursuant to § 536 060 RSMo 2000 ¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and additionally the right to a disciplinary hearing before the MREC under § 621 110 RSMo Supp 2010 The MREC and Lang jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621 045 RSMo Supp 2010

Lang acknowledges that she understands the various rights and privileges afforded her by law including the right to a hearing of the charges against her the right to appear and be represented by legal counsel the right to have all charges proven upon the record by competent and substantial evidence the right to cross examine any witnesses appearing against her at the hearing the right to present evidence on her behalf at the hearing the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against her the

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted

right to a ruling on questions of law by the Administrative Hearing Commission the right to a disciplinary hearing before the MREC at which time Lang may present evidence in mitigation of discipline the right to a claim for attorney fees and expenses and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC

Being aware of these rights provided to her by law Lang knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to her

Lang acknowledges that she has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline along with citations to law and/or regulations the MREC believes were violated Lang stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Lang's license as a broker license no 1999011145 is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621 RSMo and Chapter 339 RSMo as amended

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Lang in Part II herein is based only on the agreement set out in Part I herein Lang understands that the MREC may take further disciplinary action against her based on facts

or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered

I
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing the MREC and Lang herein jointly stipulate to the following

1 The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120 RSMo Supp. 2010 for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.860 RSMo (as amended) relating to real estate salespersons and brokers

2 Lang holds a license as a real estate broker no. 1999011145. Lang's license was at all relevant times current and active until suspended on November 27, 2010.

3 On September 7, 2010, the MREC sent a letter by both certified and regular mail to Lang's last registered address with the MREC informing her that the MREC had been notified that she was not in compliance with § 324.010 RSMo and that her license would be suspended by operation of law on October 30, 2010 unless she resolved the noncompliance issue with the Department of Revenue.

4 On or about December 9, 2010, the MREC sent another letter to Lang by both certified and regular mail informing her that her real estate broker license was suspended by operation of law for failing to comply with section 324.010 RSMo. The December 9th letter

requested that Lang return her license to the MREC within ten (10) days from the date of the correspondence and close her brokerage

5 On February 24 2011 the MREC sent another letter by both certified and regular mail to Lang informing her that failure to provide a response to the MREC s correspondence violated 20 CSR 2250 8 170(1) and providing her another 30 days within which to return her license and close her brokerage

6 Lang did not respond in writing to the MREC s written requests

7 Section 324 010 RSMo Supp 2010 states in part

All governmental entities issuing professional licenses certificates registrations or permits pursuant to chapters 324 to 346 RSMo shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee s license If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years the director shall then send notice to each such entity and licensee In the case of such delinquency or failure to file the licensee s license shall be suspended within ninety days after notice of such delinquency or failure to file unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy

8 Section 339 100 2 RSMo Supp 2010 provides in relevant part

2 The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 RSMo against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts

* * *

(15) Violation of or attempting to violate directly or indirectly or assisting or enabling any person to violate any provision of sections 339 010 to 339 180 and sections 339 710 to 339 860 or of any lawful rule adopted pursuant to sections 339 010 to 339 180 and sections 339 710 to 339 860[]

9 Because Lang has failed to respond in writing to the MREC s written requests or inquiries Lang has violated 20 CSR 2250 8 170(1) which states

(1) Failure of a licensee to respond in writing within thirty (30) days from the date of the commission s written request or inquiry mailed to the licensee s address currently registered with the commission will be sufficient grounds for taking disciplinary action against that licensee

10 Because Lang has failed to surrender her license Lang has violated 20 CSR 2250 8 155(2)(A)(3) which states

(2) Revocation/Suspension

(A) Sole Proprietorship/Individual Broker Upon the revocation or suspension of a broker s license the broker shall—

* * *

(3) Notify if the license of the broker has been suspended all licensees associated with the firm and return all licenses held by the broker to the commission

11 Based on Lang s violation of 20 CSR 2250 8 155(2)(A)(3) and 20 CSR 2250 8 170(1) cause exists to discipline Lang s real estate broker license pursuant to § 339 100 2(15) RSMo Supp 2010

II
Joint Agreed Disciplinary Order

Based on the foregoing the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536 060 RSMo and §§ 621 045 3 and 621 110 RSMo Supp 2010

12 **Lang's license is on probation** Lang s license as a broker is placed on PROBATION for a period of 2 YEARS from the effective date of the settlement agreement The period of probation shall constitute the disciplinary period During the disciplinary period Lang shall be entitled to practice as a real estate broker under Chapter 339 RSMo as amended provided Lang adheres to all the terms of this agreement

13 **Terms and conditions of the disciplinary period** The terms and conditions of the disciplinary period are as follows

A Lang shall keep the MREC apprised at all times of her current address and telephone number at each place of residence and business Lang shall notify the MREC in writing within ten (10) days of any change in this information

B Lang shall timely renew her real estate license(s) timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain her license(s) in a current and active status

C Lang shall meet in person with the MREC or its representative at any such time or place as required by the MREC or its designee upon notification from the

MREC or its designee. Said meetings will be at the MREC's discretion and may occur periodically during the probation period.

D. Lang shall immediately submit documents showing compliance with the requirements of this settlement agreement to the MREC when requested by the MREC or its designee.

E. During the probationary period, Lang shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this settlement agreement.

F. If at any time during the disciplinary period, Lang ceases to be currently licensed in Missouri under Chapter 339, RSMo, as amended, fails to timely pay all fees required for license renewal, or fails to keep the MREC advised of all current places of residence and business, the time of absence, unlicensed status, delinquency in paying fees for license renewal, or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

G. Lang shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States.

14. Upon the expiration of the disciplinary period, the license of Lang shall be fully restored if all requirements of law have been satisfied, provided, however, that in the

event the MREC determines that Lang has violated any term or condition of this Settlement Agreement the MREC may in its discretion after an evidentiary hearing vacate and set aside the discipline imposed herein and may suspend revoke or otherwise lawfully discipline Lang's license

15 No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREC as a contested case in accordance with the provisions of Chapter 536 RSMo

16 This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Lang of Chapter 339 RSMo as amended or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement

17 This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered

18 If any alleged violation of this Settlement Agreement occurred during the disciplinary period the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period or as soon thereafter as a hearing can be held to determine whether a violation occurred and if so may impose further

disciplinary action. Lang agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

19 Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

20 The terms of this Settlement Agreement are contractual, legally enforceable and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

21 The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 324, 339, and 610, RSMo, as amended.

22 Lang, together with her partners, heirs, assigns, agents, employees, representatives, and attorneys, does hereby waive, release, acquit, and forever discharge the MREC, its respective members, employees, agents, and attorneys, including former members, employees, agents, and attorneys, of, or from any liability claim, actions, causes of action, fees, costs, expenses, and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out

of or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

23 Lang understands that she may either at the time the Settlement Agreement is signed by all parties or within fifteen days thereafter submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Lang's license. If Lang desires the Administrative Hearing Commission to review this Settlement Agreement, Lang may submit her request to Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

24 If Lang requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Lang's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the MREC may proceed to seek discipline against Lang as allowed by law. If Lang does not request review by the Administrative Hearing Commission, then this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEE

Brenda A. Lang 9/7/2012
Brenda A Lang Date

MISSOURI REAL ESTATE
COMMISSION

Janet Carder Executive Director
Date: 9/13/12

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